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Error to Circuit Court of City of Norfolk.

Action by C. M. Kaylor against the Davy Pocahontas Coal Company. There was a judgment for plaintiff, and defendant brings error, while plaintiff assigns cross-error. Affirmed.

Loyall, Taylor & White, of Norfolk, for plaintiff in error.

Mann & Tyler, of Norfolk, for defendant in error.

KAYLOR v. DAVY POCAHONTAS COAL CO.

Jan. 13, 1916.

[87 S. E. 551.]

1. Attachment (§ 20*)—Issuance—Additional Writs.—Code 1904 § 2959, provides that the plaintiff at the time of, or after, the institution of any action at law for the recovery of damages or breach of contract, may sue out an attachment upon making the required affidavit. Section 2966 provides for additional attachments upon the original affidavit. Held, that the issuance of one attachment in an action at law does not exhaust that remedy, and additional attachments may be issued during the pendency of the suit when other property is discovered.

[Ed. Note.—For other cases, see Attachment, Cent. Dig. 52, 53; Dec. Dig. 20.* 2 Va.-W. Va. Enc. Dig. 91.]

2. Attachment (§ 192*)—Bond—Release of Property.—Code 1904, § 2972, declares that property levied on or seized under an attachment may be retained by or returned to, the person in whose possession it was on his giving bond with condition to have the same forthcoming as the court may require, or the defendant against whom the claim is made, by giving bond with condition to perform the judgment or decree, may release from any attachment the whole of the estate attached. Section 2974 provides that on an attachment the defendant may, upon giving bond double in value of his estate, release his whole estate from attachment. The defendant whose property was attached gave a bond under section 2972 to perform the judgment of the court, whereby all of the attached property was released. Held, that the giving of such bond did not, as the statutes contemplated additional attachment, prevent plaintiff, upon discovering other property and ascertaining that his claim had been too low, from suing out additional attachments.

[Ed. Note.—For other cases, see Attachment, Cent. Dig. §§ 637-639; Dec. Dig. § 192.* 2 Va.-W. Va. Enc. Dig. 97.]

3. Attachment (§ 269*)—Dissolution—Determination of Main Suit.—After verdict for plaintiff, and while motions for new trial were pending, plaintiff sued out a second attachment, which was made returnable to the next term. Before the attachment was returned judg-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ment was rendered and the motions disposed of, and when the return to the writ was made defendant moved to quash. Held that, while the attachment was issued in a pending suit, and was returnable to a term of the court in which the same was pending as provided by Code 1904, § 2965, yet attachment must be quashed, being a mere incident to the main suit, the determination of which precludes any ancillary proceedings.

[Ed. Note.—For other cases, see Attachment, Cent. Dig. §§ 956-958; Dec. Dig. § 269.* 2 Va.-W. Va. Enc. Dig. 118.]

Error to Circuit Court of City of Norfolk.

Action by C. M. Kaylor against the Davy Pocahontas Coal Company, in which attachments were issued. There was a judgment for plaintiff, and, an attachment being quashed, plaintiff brings error. Affirmed.

Mann & Tyler, of Norfolk, for plaintiff in error.

Loyall, Taylor & White and *N. T. Green*, all of Norfolk, for defendant in error.

ROBINSON *v.* COMMONWEALTH.

Jan. 13, 1916.

[87 S. E. 553.]

1. Intoxicating Liquors (§ 200*)—Offenses—Warrant.—The warrant in prosecution for the unlawful sale of intoxicating liquors cannot be made a blanket for all future offenses within its purview.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 219, 220; Dec. Dig. § 200.* 8 Va.-W. Va. Enc. Dig. 22.]

2. Intoxicating Liquors (§ 200*)—Unlawful Sale—Warrant—Offenses.—Where a warrant was issued for the sale of intoxicating liquor on the morning of a certain day, and before it was served accused on the same day made a second unlawful sale, whereupon the warrant was served and he was arrested, the accused might be tried under the warrant for the later offense, since it charged a sale on that day and was notice of all sales on that day, especially in view of the powers of the trial court under Code 1904, § 4107, on appeal from a justice of peace, either to amend the old warrant or to issue a bench warrant.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 219; 220; Dec. Dig. § 200.* 8 Va.-W. Va. Enc. Dig. 23.]

3. Criminal Law (§ 758*)—Trial—Instructions—Province of Jury—Weight of Evidence.—In a prosecution for the unlawful sale of intoxicating liquors, where it appeared that a police officer, learning that a certain person had bought liquor from the defendant, swore out a warrant, and to corroborate such person sent him with marked

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